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NAZI WAR CRIMES DISCLOSURE ACT 2000

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CONTROLS

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PARIS FOR REED FENDRICK
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SUBJECT: CONGO: POLITICAL TEMPERATURE RISING

REF: (A) BRAZZAVILLE 2691 (NOTAL); (B) PARIS 29325 (NOTAL)
- (C) STATE 359750 (NOTAL); (D) BRAZZAVILLE 3789 (NOTAL)

1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY. SEVERAL RECENT EVENTS HAVE RAISED THE POLITICAL TEMPERATURE IN BRAZZAVILLE AND HAVE INCREASED TENSION BETWEEN THE TRANSITIONAL GOVERNMENT AND THE PRESIDENCY. WHILE THE GOVERNMENT MAY PURSUE CRIMINAL

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INVESTIGATIONS OF OFFICIALS OF THE FORMER ONE PARTY REGIME, WE BELIEVE THAT ANY MAJOR CONFRONTATION WITH SASSOU PERSONALLY WILL BE DEFERRED UNTIL AFTER ELECTIONS IN MAY 1992. END SUMMARY.

FACTIONS EMERGE

3. TENSIONS BETWEEN THE MILONGO GOVERNMENT AND SUPPORTERS OF THE VESTIGAL-BUT-STILL-DANGEROUS SASSOU PRESIDENCY HAVE BEEN BUILDING OVER THE PAST FEW WEEKS. THIS ANTAGONISM HAS BEEN PROMINENTLY DISPLAYED IN THE CONGO'S PROVISIONAL PARLIAMENT, THE SUPERIOR COUNCIL OF THE REPUBLIC (CSR), WHERE TWO PRINCIPAL BLOCKS HAVE EMERGED. IN THE GOVERNMENT'S CORNER ARE THE FORCES FOR CHANGE (FDC), A PRO-MILONGO COALITION OF SOME 40 PARTIES, INCLUDING BERNARD KOLELAS' MCDDI, FORMER PRESIDENT YOMBI-OPANGO'S RDD AND THE CSC TRADE UNION CONFEDERATION UNDER JEAN-MICHEL BOKAMBA-YANGOUMA. OPPOSING THE FDC IS A LOOSE GROUPING KNOWN AS THE ALLIANCE, QUALIFIED BY MOST OBSERVERS AS PRO-SASSOU AND DEFENDING THE INTERESTS OF THE OLD REGIME AND ITS ADHERENTS, STILL NUMEROUS. CSR PRESIDENT MSGR. ERNEST KOMBO IS SEEN BY MANY TO BE IN THE ALLIANCE CAMP, BASED ON HIS RECENT ACTIONS AND STATEMENTS, DESPITE HAVING TURNED IN A WIDELY-ADMIRE, IMPARTIAL PERFORMANCE AS PRESIDENT OF THE NATIONAL CONFERENCE.

ACRIMONIOUS DIALOGUE

4. THE TENOR OF RECENT EXCHANGES BETWEEN THESE TWO FACTIONS HAS GROWN INCREASINGLY SHRILL AND CONTENTIOUS. MSGR. KOMBO HIMSELF HAS BEEN THE OBJECT OF HOT DEBATE, WITH THE FDC ACCUSING HIM OF SIDING WITH SASSOU AND OF VIOLATING THE FUNDAMENTAL ACT, CONGO'S PROVISIONAL CONSTITUTION, BY CONVENING AN AD-HOC ADVISORY BODY KNOWN AS THE "COUNCIL OF NOTABLES". KOMBO AT ONE POINT SUMMONED PM MILONGO TO APPEAR BEFORE THIS GROUP, WHICH SHOWERED CRITICISM UPON THE TRANSITIONAL GOVERNMENT. THE "WISE MEN" COMPRISING THE COUNCIL OF NOTABLES TURNED OUT, IN FACT, TO BE MAINLY MEMBERS OF THE FORMER RULING PARTY (PCT), SOME OF WHOM SERVED IN THE OLD REGIME. COMMENT: HARDLY AN UNBIASED GROUP OF ADVISORS, THE COUNCIL OF NOTABLES SERVED TO REINFORCE KOMBO'S GROWING IMAGE AS PRO-SASSOU. END COMMENT. THE PUBLIC MEDIA DIALOGUE BETWEEN THE FDC AND THE ALLIANCE HAS BECOME ACRIMONIOUS, WITH THE ALLIANCE ISSUING A PRESS STATEMENT OCT. 10 CALLING FOR THE RESIGNATION OF MILONGO AND ALL MINISTERS WHO ARE HEADS OF PARTIES. THE FDC COUNTERED WITH A DECLARATION DEMANDING SASSOU'S RESIGNATION, ALONG WITH THAT OF ALL CSR MEMBERS WHO ARE POLITICAL PARTY OFFICIALS.

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THE AMNESTY LAW

5. ANOTHER PRINCIPAL FOCUS OF CONTROVERSY HAS BEEN ACT 018, AN AMNESTY LAW ALLEGEDLY PASSED BY THE NATIONAL CONFERENCE. ACT 018 GRANTED UNCONDITIONAL AMNESTY TO ALL OFFICIALS OF THE FORMER REGIME FOR ANY MISDEEDS COMMITTED WHILE IN OFFICE, EFFECTIVELY PREVENTING THE TRANSITIONAL GOVERNMENT FROM PROSECUTING OR SEIZING THE ASSETS OF SASSOU REGIME OFFICIALS. A PUBLIC OUTCRY FOLLOWED THE DISCOVERY IN AUGUST OF THIS PURPORTED ACT AMONG THE NATIONAL CONFERENCE DOCUMENTS SIGNED INTO LAW BY NC PRESIDENT KOMBO. WITHIN THE CSR, PRO-MILONGO MEMBERS CHARGED THAT ACT 018 WAS A FRAUDULENT DOCUMENT SLIPPED INTO THE FILE BY SASSOU SUPPORTERS AND COMPLICITOUSLY SIGNED BY MSGR. KOMBO. LABOR UNION CONFEDERATION (CSC) LEADER JEAN-MICHEL BOKAMBA-YANGOUMA DECLARED THAT HIS OFFICE HAD REVIEWED THE ENTIRE VIDEOCASSETTE PROCEEDINGS OF THE NATIONAL CONFERENCE DURING THE TIME ACT 018 WAS CLAIMED TO HAVE BEEN DEBATED, FINDING NO DISCUSSION OR VOTE ON ANY SUCH ACT. SASSOU PROONENTS INSISTED THAT ACT 018 WAS AUTHENTIC AND BINDING, PASSED BY THE NATIONAL CONFERENCE IN A SPIRIT OF RECONCILIATION. PUBLIC SENTIMENT LARGEFLY FAVORED THE MILONGO POSITION, BOLSTERED BY THE PERVERSIVE MYTHOLOGY THAT ALL WILL BE WELL IN CONGO IF ONLY THE COUNTRY'S STOLEN OIL MONEY IS FOUND AND RETURNED TO THE PUBLIC TREASURY. IN THE POPULAR PERCEPTION, ACT 018 WAS SEEN AS A TRICK BY SASSOU LOYALISTS TO PREVENT THE NEW GOVERNMENT'S SEEKING TO REPATRIATE PURLOINED FUNDS.

AMNESTY REPEALED

6. MUCH TO THE DISTRESS OF THE SASSOU CAMP, MILONGO SUPPORTERS WERE ABLE TO HAVE A REVIEW OF ACT 018 PUT ON THE CSR AGENDA. THE CONTINUING CONTROVERSY CAME TO A HEAD ON OCT. 25 WHEN, AFTER A DAY OF VOCIFEROUS DEBATE, THE DISPUTED ACT WAS PUT TO A CSR VOTE UNDER THE SCRUTINY OF NATIONWIDE TELEVISION COVERAGE. WHEN MSGR. KOMBO CALLED FOR A SHOW OF HANDS, A MOTION TO WITHDRAW ACT 018 PASSED BY AN OVERWHELMING MARGIN: 79 FOR, 2 AGAINST, 36 ABSTENTIONS. CHEERS ERUPTED IN THE CONFERENCE HALL WHEN IT WAS ANNOUNCED THAT BY VOTE OF THE CSR, ACT 018 HAD BEEN WITHDRAWN AND NO LONGER HAD FORCE OF LAW. A CROWD OF ABOUT 200 STUDENTS OUTSIDE THE BUILDING APPLAUSED AS DELEGATES FILED OUT: THE STUDENTS, DCM WAS TOLD, HAD BEEN PREPARED TO STONE THE CSR MEMBERS HAD THE VOTE GONE DIFFERENTLY. THE WAY WAS THUS CLEARED FOR THE TRANSITIONAL GOVERNMENT TO TAKE ACTION AGAINST MEMBERS OF THE FORMER REGIME WHO, WITHOUT THE AMNESTY'S SHIELD, COULD NOW BE HELD ACCOUNTABLE FOR ALLEGED MISDEEDS OF THE PAST.

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FORMER MINISTER TRIED

7. THE EFFECT OF THE ACT 018 REPEAL WAS SOON APPARENT. THE MUCH-ANTICIPATED TRIAL OF FORMER FINANCE MINISTER ITHIT OSSETOUMBA LIKOUNDZOU ON EMBEZZLEMENT CHARGES (REF A) HAD BEGUN THE DAY PRIOR TO THE ACT 018 VOTE. A MULTINATIONAL DEFENSE TEAM OF NINE LAWYERS, INCLUDING SUCH LUMINARIES AS FRENCHMAN JEAN VERGES (OF KLAUS BARBIE DEFENSE FAME) AND FORMER FRENCH MINISTER MICHEL AURILLAC, HAD BEEN ASSEMBLED, THANKS TO THE DEEP POCKETS OF SASSOU AS WELL AS THE DEEP CONCERN OF THE FRENCH RPR PARTY, WITH WHICH SASSOU HAS CLOSE LINKS. THE DEFENSE HAD REPORTEDLY BASED ITS CASE PRIMARILY ON THE AMNESTY GUARANTEED BY ACT 018: THIS STRATEGY WAS NULLIFIED WHEN ACT 018 CEASED TO EXIST. SASSOU, CLEARLY WORRIED OVER THE POSSIBLE OUTCOME OF THE LIKOUNDZOU TRIAL, URGENTLY SUMMONED THE EMBASSY TO A MEETING AT THE PRESIDENTIAL PALACE ON OCT. 30. AT SASSOU'S HEADQUARTERS DCM RECEIVED AN ENTREATY FROM THE PRESIDENT'S DIPLOMATIC COUNSELLOR, FORMER FORMIN NDIINGA-OBA, FOR THE EMBASSY'S INTERVENTION WITH THE MILONGO GOVERNMENT TO SEEK AN "ARRANGEMENT" IN THE LIKOUNDZOU CASE WHICH WOULD NOT "DISHONOR OR HUMILIATE" THE FORMER GOVERNMENT. THE AMBASSADOR CHOSE NOT TO APPROACH THE GOTC, CONSIDERING THE CASE AN INTERNAL CONGOLESE JUDICIAL MATTER. IN A VERDICT ANNOUNCED AT 3 AM ON OCT. 31, THE BRAZZAVILLE COURT CONVICTED LIKOUNDZOU OF EMBEZZLING 12 BILLION CFA FRANCS (ABOUT USD 45 MILLION), MONEY LOANED TO THE CONGOLESE GOVERNMENT BY BCCI IN 1987 WHILE LIKOUNDZOU WAS MINISTER OF FINANCE. HE WAS SENTENCED TO 15 YEARS AT HARD LABOR AND RESTITUTION OF THE ENTIRE SUM. THE DEFENSE TEAM ANNOUNCED ITS INTENTION TO APPEAL. SASSOU'S YOUNGER BROTHER MAURICE NGUESSO, FORMER CHIEF PURCHASING DIRECTOR FOR OIL PARASTATAL HYDRO-CONGO, IS CURRENTLY UNDER ARREST AWAITING TRIAL ON SIMILAR CHARGES.

MORE TROUBLE FOR SASSOU

8. IN ADDITION TO THE REPEAL OF ACT 018 AND THE LIKOUNDZOU VERDICT, SASSOU RECEIVED MORE BAD NEWS FROM THE CSR. THE NATIONAL CONFERENCE HAD PASSED A SERIES OF 10 ACTS DIRECTED SPECIFICALLY AGAINST THE PRESIDENT, HIS WIFE AND CLOSE ASSOCIATES. MSGR. KOMBO, HOWEVER, HAD REFUSED TO SIGN THESE ACTS, SAYING THEY WERE "DELICATE" AND NOT IN KEEPING WITH THE SPIRIT OF RECONCILIATION. IN A STORMY SESSION OCT. 22, THE CSR VOTED TO OBLIGE MSGR. KOMBO TO HONOR THE NC'S INTENT AND SIGN THE ACTS: HE RELUCTANTLY DID SO ON OCT. 23. AMONG THE ACTS NOW HAVING FORCE OF LAW IS ONE ACCUSING SASSOU OF MISMANAGEMENT OF CONGO'S PETROLEUM HERITAGE;

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ANOTHER ACT CONDEMS SASSOU TO PAY A SYMBOLIC FINE OF ONE BILLION CFA FRANCS (ABOUT 3 MILLION USD). SASSOU'S RESPONSIBILITY FOR THE 1988 "GENOCIDE OF OWANDO" IS ESTABLISHED BY A THIRD ACT, WHILE YET ANOTHER MAKES HIM RESPONSIBLE FOR "ASSASSINATIONS COMMITTED BY THE PARTY'S (PCT) MILITARY COMMITTEE ON MARCH 18 AND APRIL 2 OF 1977" (THE MURDERS OF PRESIDENT MARIEN NGOUABI AND CARDINAL EMILE BIAYENDA), WHILE SASSOU WAS MINISTER OF DEFENSE AND SECURITY. MRS. MARIE-ANTOINETTE SASSOU-NGUESSO, A BUSINESSWOMAN WHO HAS A FINGER IN A MYRIAD OF LOCAL PIES, IS THE OBJECT OF ANOTHER ACT COMPELLING HER TO PAY UP ON A SERIES OF COURT JUDGMENTS RENDERED AGAINST HER OVER THE YEARS, WHICH SHE HAD STUDIOUSLY IGNORED. OTHER ACTS IN THIS PRICKLY LEGISLATIVE PACKAGE INCULPATE FORMER MEMBERS OF SASSOU'S GOVERNMENT OF MISMANAGEMENT AND EMBEZZLEMENT OF STATE FUNDS. THE OVERALL TENOR OF THIS LEGISLATION AIMED DIRECTLY AT THE PRESIDENT AND HIS ENTOURAGE IS UNMISTAKABLY TOUGH, BUT AT THE SAME TIME, REFLECTIVE OF POPULAR SENTIMENT.

SASSOU SAFE FOR NOW

9. DESPITE THE APPARENT STAGE SETTING FOR A POSSIBLE GOTC MOVE AGAINST THE PRESIDENT HIMSELF, POST BELIEVES IT UNLIKELY THAT THE MILONGO GOVERNMENT WILL PUSH THE ISSUE TO SUCH AN EXTREME. THE FUNDAMENTAL ACT PROVIDES FOR THREE INSTITUTIONS TO OVERSEE THE ONE-YEAR TRANSITIONAL PERIOD: THE SUPERIOR COUNCIL, THE PRIME MINISTER, AND THE PRESIDENT. THIS TRIPARTITE CONCEPT IS CONTINUALLY TRUMPETED BEFORE THE CONGOLESE PUBLIC IN THE PRESS, ON RADIO AND TELEVISION AND IS NOW FIRMLY ENTRENCHED IN THE NATIONAL CONSCIOUSNESS. AN ATTEMPT TO ARREST OR OTHERWISE ATTACK SASSOU WOULD CLEARLY DESTABILIZE THIS SYSTEM, AND WOULD UNDOUBTEDLY PROVOKE ACCUSATIONS OF BAD FAITH AND FAILURE TO RESPECT THE NATIONAL CONFERENCE'S WISHES ON THE PART OF THE GOTC.

10. THE FUNDAMENTAL ACT, MOREOVER, IS VERY VAGUE CONCERNING THE LEGAL STATUS OF THE THREE INSTITUTIONS VIS A VIS ONE ANOTHER: IT IS NOT AT ALL CLEAR THAT THE GOTC WOULD BE LEGALLY EMPOWERED TO TAKE ACTION AGAINST THE PRESIDENT. IN THE CURRENT CLIMATE OF RESPECT FOR THE LAW ("NOUS SOMMES UN ETAT DE DROIT") IT IS IMPROBABLE, IN OUR ESTIMATION, THAT THE MILONGO GOVERNMENT WOULD TAKE SIGNIFICANT ACTION AGAINST SASSOU DURING THE TRANSITIONAL PERIOD. FOR THE MOMENT, AT LEAST, THE ACTS PASSED BY THE NC CONCERNING THE PRESIDENT WILL MOST LIKELY BE HELD IN ABEYANCE, AND IT WILL BE LEFT TO THE POST-ELECTION GOVERNMENT TO ENFORCE THEM IF IT SO CHOOSES. IF THE ELECTED GOVERNMENT SHOULD HAVE A SIMILAR ORIENTATION TO THE MILONGO GOVERNMENT - A VERY LIKELY POSSIBILITY - SASSOU'S FATE UNDER THE NEW REGIME COULD WELL TAKE A TURN FOR THE

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WORSE. MEANWHILE, IT IS NOT EXCLUDED THAT THE GOTC MIGHT TAKE FURTHER ACTIONS DURING THE TRANSITIONAL PERIOD AGAINST FORMER OFFICIALS OF THE SASSOU REGIME, OR EVEN MRS. SASSOU. FOR NOW, THOUGH, IT SEEMS PROBABLE THE MILONGO GOVERNMENT WILL ALLOW SASSOU TO FINISH WITH IMPUNITY HIS ONE-YEAR MANDATE AS CEREMONIAL PRESIDENT.

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COMMENT AND CONCLUSION
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11. AFTER FIVE MONTHS OF TRANSITIONAL GOVERNMENT, THE SPIRIT OF RECONCILIATION THAT MARKED THE END OF THE NATIONAL CONFERENCE IS UNDENIABLY BEGINNING TO FRAY AROUND THE EDGES. THE RECENT MEASURES TAKEN AGAINST MEMBERS OF THE OLD REGIME BY THE CSR, THE GOTC AND THE JUDICIARY SUGGEST A MOOD FOR SETTLING OLD SCORES. POPULAR SENTIMENT IS STRONGLY IN FAVOR OF RETRIBUTION AGAINST THOSE PERCEIVED AS HAVING PILLAGED THE COUNTRY'S OIL PATRIMONY. ERSTWHILE FOES OF THE FORMER REGIME SUCH AS BERNARD KOLELAS OF THE MCDDI AND FORMER PRESIDENT YOMBI-OPANGO CAN SCARCELY CONCEAL THEIR SATISFACTION AT THE CURRENT DISCOMFITURE OF THE MAN WHO JAILED (AND ALLEGEDLY TORTURED) THEM BOTH, DENNIS SASSOU-NGUESSO. WHILE IT IS PROBABLY INEVITABLE THAT SUCH FEELINGS SURFACE AS THE NATIONAL CONFERENCE'S CONCILIATORY GLOW FADES INTO THE PRESENT PRE-ELECTIONAL REALITIES, IT WILL BE A MAJOR CHALLENGE FOR THE MILONGO GOVERNMENT TO BALANCE THE DICTATES OF ONGOING CRIMINAL INVESTIGATIONS WITH THE NEED TO MAINTAIN AN ATMOSPHERE OF DEMOCRATIC FAIR PLAY LEADING UP TO THE ELECTIONS.

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ADMIN
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